WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 3415

IN THE MATTER OF: Served September 26, 1989

Application of J&B TRANSPORTATION COMPANY, INC.; METRO MEDICAB, INC.; P&T TRANSPORTATION CO., INC.; OTIS F. SMITH Trading as SPEEDY TRANSPORTATION; ELLIS B. HARRISON, SR., Trading as AREA TRANSPORTATION COMPANY; DAMON'S TRANSPORTATION COMPANY, INC.; WILLIAM C. DYE Trading as W&D TRANSPORTATION; BATTLE'S TRANSPORTATION, INC.; and CARE ACCESS, INC., for Rate Increase	)	Case No. AP-88-35
Investigation of Rates for the Transportation of Non-Ambulatory Passengers for the District of Columbia Department of Human Services Medicaid Program	)	Case No. MP-88-38

PROCEDURAL HISTORY

On October 4, 1988, a proposal to increase the rates for transportation of non-ambulatory participants in the District of Columbia Department of Human Services (DHS) Medicaid program was filed with the Commission by J&B Transportation Company, Inc., WMATC Carrier No. 45; Metro Medicab, Inc., WMATC Carrier No. 46; P&T Transportation Co., Inc., WMATC Carrier No. 47; Otis F. Smith trading as Speedy Transportation, WMATC Carrier No. 48; Ellis B. Harrison, Sr., trading as Area Transportation Company, WMATC Carrier No. 49; Damon's Transportation Company, Inc., WMATC Carrier No. 60; William C. Dye trading as W&D Transportation, WMATC Carrier No. 61; and Battle's Transportation, Inc., WMATC Carrier No. 62 (J&B et al. or applicants).

By motion filed November 23, 1988, Care Access, Inc., WMATC Carrier No. 141, requested that it be made an additional applicant. That motion was granted by Order No. 3267, served December 19, 1988. By the same order, the Commission recognized that, if approved, an amended rate schedule might be justified for other carriers providing service for DHS. Therefore, the Commission simultaneously instituted an investigation pursuant to the Compact, Title II, Article XII, Section 6(b) to determine whether uniform rates for the DHS service provided by J&B et al. are warranted and justified for all carriers providing such service.

The following carriers were made parties-respondent to the investigation and were required to submit information deemed relevant by the Commission to an analysis of the proposed rate increase: Ironsides Medical Transportation Corporation, WMATC Carrier No. 31; Dan Jenkins trading as Jenkins Transportation Service, 1/ WMATC Carrier No. 44; Elrod Transportation Service, Inc., WMATC Carrier No. 50; Henry L. Epps, Jr., WMATC Carrier No. 51; David C. Pearson trading as E&H Transportation Company, WMATC Carrier No. 53; Mobile Care, Ltd., 2/ WMATC Carrier No. 65; Perkins Ambulance and Wheelchair Service, Inc., 3/ WMATC Carrier No. 126; and Your Way Transportation, Inc., 4/ WMATC Carrier No. 142. Mercy Ambulette Services, Inc., WMATC Carrier No. 149, was granted authority to transport DHS program participants after the investigation was instituted. In keeping with the Commission's intent of examining whether a uniform rate structure is justified for all carriers providing the same service for DHS, Mercy Ambulette Services, Inc., is hereby named a party-respondent in Case No. MP-88-38.

A prehearing conference was held on February 9, 1989, pursuant to Order Nos. 3267 and 3270, served December 19, 1988, and January 10, 1989, respectively. A number of issues were addressed including various dates for the submission of additional data and the determination of a hearing date. Public hearings were held on May 16 and 17, 1989, pursuant to Order No. 3318, served April 18, 1989; applicants/parties-respondent presented eight witnesses. The Commission's staff presented two witnesses. No members of the traveling public asked to be heard, no protests in the matters were filed, and at hearing the matter was uncontested.

1/ Pursuant to Order No. 3316, served April 18, 1989, WMATC Certificate No. 44 was transferred from Dan Jenkins to Jenkins Transportation Service, Inc. (JTS). JTS is hereby substituted for Mr. Jenkins as a party-respondent to Case No. MP-88-38.

2/ Mobile Care, Ltd., was mistakenly named a party-respondent in the investigation proceeding. Order No. 3318, served April 18, 1989, dismissed Mobile Care, Ltd., from Case No. MP-88-38.

3/ By Order No. 3339, served May 16, 1989 Certificate No. 142 of Perkins Ambulance and Wheelchair Service, Inc., was revoked for failure to comply with a lawful order of the Commission directing submission of specified materials. Its authority was reinstated by Order No. 3366, served June 27, 1989. It should be noted that Order Nos. 3339 and 3366 erroneously cited Case No. MP-88-35. The reference should been have made to Case No. MP-88-38.

4/ Due to failure to maintain insurance coverage, WMATC Certificate No. 142 of Your Way Transportation, Inc., was revoked by Order No. 3347, served June 2, 1989.

SUMMARY OF EVIDENCE

Applicants propose a rate increase in excess of 100 percent for the transportation of non-ambulatory participants in the DHS Medicaid program. Applicants also propose to charge for the transportation of the participants' attendants. The proposed fares are:

One-way trips within the District of Columbia city limits $30.00

One-way trips outside the District of Columbia city limits $30.00
[Plus $1.50 per loaded mile]

Round trip within the District of Columbia city limits $50.00

Round trip outside the District of Columbia city limits $50.00
Plus $1.50 per loaded mile

Cancellation charges
One-way trips $7.50
Round trips $12.50

Unusual condition requiring additional manpower - 33% of the charge for the trip

Charge for the transportation of attendant with passenger- 33% of the charge for the passenger

The current rates are:

One-way trips within the Capital Beltway $15.00

One-way trips outside the Capital Beltway $15.00
Plus $.75 per loaded mile

Round trip within the Capital Beltway $25.00

Round trip outside the Capital Beltway $25.00
Plus $.75 per loaded mile

Cancellation charges
One-way trips $7.50
Round trips $12.50

Unusual condition requiring additional manpower-
$5.00 per trip

Mr. Ronald Holmes, a professional accountant, testified on applicants' behalf. Mr. Holmes has experience in preparing cost analyses for regulatory agencies and, through prior assignments, is familiar with Medicaid regulations. Mr. Holmes has performed work for transportation companies in the past and testified that he is aware of the costs involved in operating a transportation company.

In support of the request for a rate increase Mr. Holmes prepared and sponsored a summary of certain carriers' actual revenues and expenses for four test years, an industry profile for each of those years based on a weighted average, a "modified" industry profile for each of those years, an industry projection of revenues and expenses based on existing rates, and an industry projection of revenues and expenses based on the requested rates.

The four test years selected by applicants as representative were 1980, 1982, 1984, and 1986. Actual revenues and expenses were drawn from annual reports filed with the Commission by applicants for each of those years. These reports are sworn and notarized. The historic industry profile for each test year consisted of a weighted average of actual revenues and expenses. All carriers had a single, identical revenue category. 5/ There was some variation in expense categories, and the weighted average -- defined as "[a]n average computed by counting each occurrence of each value not merely a single occurrence of each value" -- was used to accommodate that variation. Thus, where all carriers reported an expense, the total expended in any given test year was divided by eight; where only some carriers reported an expense, the total expended on that item in any given test year was divided by the number of carriers reporting the expense. Using this method Mr. Holmes showed the average carrier recognized a loss of $10,760 (19.8 percent) in 1980; a loss of $8,732 (12.2 percent) in 1982; a loss of $21,344 (17.8 percent) in 1984; and a loss of $34,467 (26.3 percent) in 1986. Mr. Holmes then modified these weighted averages in an effort to make adjustments for expenditures determined through interviews with carriers and data review to have been understated or overlooked. Major adjustments included an allowance for part-time help equal to 25 percent of drivers' wages, an allowance for clerical and dispatching wages at market rate, a set cost per week for maintenance, an upward adjustment of 15 percent of actual fuel and oil expenditures to reflect cash expenditures not recorded, an allowance for accident claims paid, and allowances for garage and office rent. After further adjustment to reflect a 10 percent rate of return, 6/ federal and state tax of five (1984 and 1986) or seven (1980 and 1982) percent of revenues, and FICA for owners, this method showed the average carrier's modified expenses would have resulted in a loss of $44,565 (81.9 percent) in 1980; a loss of $45,047 (63.9 percent) in 1982; a loss of $58,402 (48.5 percent) in 1984; and a loss of $64,655 (49.4 percent) in 1986.

5/ Damon's was not included in the 1982 profile. Care Access is a relatively new carrier and was not operating during any test year.

6/ "Owners draw" in excess of the proposed rate of return (from 13 to 19 percent) was also included in expenditures.

In discussing the methodology employed in constructing the industry profiles and projections, Mr. Holmes testified that he circulated a memo to applicants, a copy of which was introduced into evidence as Appendix B to Exhibit 3. The memo requested financial information from the carriers that would be necessary, in the opinion of the witness, to support a request for a rate increase. Annual reports filed with the Commission were used as a basis for determining carriers' revenues and expenses during the test years. Carrier interviews were then conducted after it was determined that key expenses had been reported during one year and not reported in subsequent years or expenses may have been overlooked by a carrier. Mr. Holmes testified that, due to the high probability that carriers had omitted data, he decided that a more accurate accounting of the carriers' financial position would be represented by using weighted averages. Mr. Holmes included in the average carrier total an amount for each category in which at least one carrier showed an expense.

In applicants' projection of revenues under the existing rate structure and under the proposed tariff Mr. Holmes presented "an optimum average operating projection." The witness testified that the primary focus of the optimum average operating projection is to present a financial profile of an ideal carrier operating at a desired level of efficiency, safety, and support. Such an operation would include expenses for ample insurance coverage for all phases of the carriers' operations including those that go beyond bare transportation, an allowance for updating of transportation equipment and communication devices, the inclusion of a full-time transportation manager, and a 10 percent rate of return for owners. The projection presented by the witness indicates that under the current tariff, after adjusting expenses, the average optimal carrier will suffer a loss of $121,015 over a 12-month period if the existing rates continue, with the loss increasing to $134,114 after including a "reasonable profit and investment rate of return - 10%." Under the proposed tariff the same carrier would net $9,979 but would still suffer a loss of $16,220 after similar adjustments and allowing for "reasonable . . . rate of return 10%." While the witness could offer no assurance that the items included in data representing optimum business operations would be implemented if the requested rate increase were granted, he was confident that the carriers' concerns expressed at hearing and during prior meetings demonstrated their desire to run more efficient operations.

In addition to financial data, applicants filed equipment lists indicating make, model, year, serial number, vehicle number, license plate number (with jurisdiction), and seating capacity of each vehicle used in WMATC operations. Respondents filed their most recent balance sheets; operating statements for 1980, 1982, 1984, and 1986; equipment list indicating make, model, year, serial number, vehicle number, license plate number (with jurisdiction), and seating capacity of each vehicle used in WMATC operations; a 12-month projection of revenues and expenses under existing tariffs; and a 12-month projection of revenues and expenses under the proposed rates.

Six DHS transportation providers testified in support of the proposed rate increase. Mr. McKinley Battle, president of Battle's Transportation, Inc., testified that Battle's provided DHS service from 1980 through 1988 using six vehicles modified with wheelchair tie-downs to accommodate non-ambulatory passengers. The company does not currently transport participants in the DHS Medicaid program. The witness testified that while providing DHS service he transported between 15 and 20 individuals a day, no more than ten of whom were "standing" 7/ passengers. A typical trip within the District of Columbia would take 45 minutes during off-hours, with the same trip increasing to two hours during rush hour. Ninety-nine percent of Battle's DHS service required extra manpower. Battle's did not provide strictly "curb-to-curb" or "door-to-door" service. Employees often registered passengers in hospitals. Although Battle's employees were required to enter passengers' homes, Battle's carried auto liability insurance exclusively. The witness would like to secure general business liability insurance. Such coverage would apply to all phases of Battle's operations, not just actual transportation. He has not secured such coverage because of the cost. Mr. Battle rents an office/garage for $1,800 a month.

Mr. Dan Jenkins, president of Jenkin's Transportation Service, Inc., testified in support of the application. Mr. Jenkins has been a a Medicaid transportation provider for 13 years. Although he has authority to do "private pay" work, two-thirds of his passengers are paid for by DHS. Mr. Jenkins operates five vehicles equipped with wheelchair locks and lifts. The witness would like to modify his equipment to include extended roofing to better accommodate taller non-ambulatory individuals. Mr. Jenkins currently conducts operations out of his home but has received numerous citations resulting in fines for this practice. Mr. Jenkins is in the process of locating office space. Mr. Jenkins believes that a rate increase would enable him to obtain an office, a full-time secretary, increase drivers' salaries, pay fringe benefits, and update equipment.

Mr. Jenkins testified that his company does not offer mere curb-to-curb service. His drivers enter dwellings to pick up passengers and return them in the same manner; helpers are often required when stairs are involved. The use of a helper is more efficient than engaging the assistance of another driver. Mr. Jenkins' drivers often register passengers at medical treatment facilities and offer additional assistance as needed. The witness stated, however, that his company does not have insurance coverage "past the threshold of the passenger's home." When asked if he had any document or literature from DHS that describes a DHS transportation provider's responsibility, Mr. Jenkins admitted that he receives much correspondence from DHS but does not take the time to read everything.

7/ A "standing" passenger is one regularly assigned to the same carrier.

Increasing operational costs account for Mr. Jenkins inability to get general business liability insurance, update his equipment, and add staff. Mr. Jenkins testified that when he initiated operations in 1976, he paid an annual insurance premium of $800 per van; now his premium per van is approximately $2,000. Due to certain accounting procedures he admits to filing his 1986 WMATC annual report with some omissions.

Mr. Thomas Pickens, president of P&T Transportation Co., Inc. (P&T), testified in support of the application. Mr. Pickens has been a transportation provider for the DHS Medicaid program for 14 years. 8/ Although P&T currently holds authority to transport private-pay passengers, ninety percent of its current work is paid for by DHS. P&T operates three vans; wheelchairs are secured with angle irons bolted to the floor. P&T averages 17 trips a day transporting between one and three passengers per van at one time. Out of the 17 trips, the witness estimates that helpers are needed 12 times. The witness requires more than two helpers for one job in cases where a passenger is very heavy and where stairs are involved. According to Mr. Pickens, DHS's prohibition against compensating for more than two helpers generates a monetary loss for the carrier. He, therefore, believes that an extra manpower fee should be allowed and that DHS carriers should be compensated for transporting attendants who travel with non-ambulatory passengers. The witness is of the further opinion that due to increased traffic, the District of Columbia line would be a better boundary for extra mileage determinations than the Capital Beltway. Mr. Thomas Pickens keeps track of general business receipts (including gas and repairs); poor accounting practices, however, resulted in underreporting of expenses in his annual reports to the Commission. If the increase requested is allowed, the witness would (1) secure the service of an accountant in an effort to keep records in order; (2) establish an office outside of his residence; (3) install additional safety features in P&T's vehicles; (4) install two-way radios; (5) identify P&T's vans; (6) place drivers in uniform; and (7) purchase general liability insurance to cover all aspects of P&T's operation. This last item is desired because the witness finds it impossible to provide mere curb-to-curb service. The witness currently shares secretarial expenses with his brother, Mr. John Otis Pickens.

Mr. John Otis Pickens, president of Metro Medicab, Inc., has provided transportation for the DHS Medicaid program since 1977. Metro Medicab operates six vehicles equipped with wheelchair angle irons. The company makes 22 trips daily carrying approximately two passengers at one time. Out of 22 trips the witness estimates that a helper is required 16 times. Most passengers are transported with attendants. Due to increased traffic congestion, the witness believes that the extra mileage boundary should be moved from the Capital Beltway to the District of Columbia border. Due to inadequate accounting practices,

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8/ P&T was inadvertently omitted from applicants' Attachment B to Exhibit 1 "1986 Operating Expenses Reported to WMATC by Carriers Doing DHS Work Exclusively."

the witness admits underreporting expenses in his company's WMATC annual reports. Such omissions have included failure to list expenses incurred for professional services, cleaning of vehicles, and payment for minor accidents. The witness hopes to establish an office outside his residence if the requested rate increase is granted.

Ms. Kathleen Martin, owner of Care Access, Inc., has been a DHS transportation provider since August 1988. Care Access is also authorized to transport private-pay individuals, but ninety-eight percent of its current operations are paid for by DHS. Care Access operates two vehicles. It carries approximately 16 passengers a day with usually one passenger in a vehicle per trip. Attendants are often transported. About half of the trips require a helper. Care Access suffers losses when a job requires two helpers and payment is only provided for one. Ms. Martin testified that Care Access has never offered mere curb-to-curb service. Since employees spend significant time in passengers' homes assisting them to the van, the witness believes general business liability insurance is needed but cannot afford it. Ms. Martin hopes to have the mileage boundary line moved from the Capital Beltway to the District of Columbia border, time of transport being a major consideration for this request. If the requested rate increase is granted, Care Access would identify its vans, place its drivers in uniforms, secure office space, and improve maintenance on its vehicles.

The final carrier to testify in support of the application was Mr. Damon Gary, Sr., president of Damon's Transportation Co., Inc. (Damon's). Damon's has been a DHS transportation provider since 1980. It operates five vehicles equipped with seat belts and angle irons. Damon's transports approximately 20 passengers a day, one individual per trip. Damon's has never provided mere curb-to-curb service. Fifty percent of trips performed require two helpers. Damon's hopes to be compensated for provision of additional manpower and transportation of attendants. Mr. Gary fears that if an attendant is involved in a accident, Damon's would be faced with legal action. The witness is in favor of moving the point at which a mileage charge is added to the basic fee from the Capital Beltway to the District of Columbia line. This request is supported by increased transport time due to traffic congestion. The witness admits underreporting expenses on annual reports filed with the Commission. Specific salaries, out-of-pocket expenses for minor accidents, and increased training cost due to high turnover of drivers were omitted. Damon's would take steps to improve operations and service and establish an office outside of Mr. Gary's home if the proposed rate increase is allowed.

Mr. Kurt Lewis, an accountant working with Financial Management and Reporting Systems, Inc., testified. Mr. Lewis has prepared financial records for Battle's Transportation, Inc., and J&B Transportation Company, Inc. Mr. Lewis had been a member of a team of persons that attempted to organize the DHS transportation providers to file an application for a rate increase. It was his experience that the carriers were difficult to organize and that their records were very disorganized. He found it difficult to get an accurate financial picture of the individual operations. Mr. Lewis stated that many of the carriers drive vehicles, perform maintenance on the vehicles, and manage employees in addition to keeping records. As a result of this myriad of tasks, the witness opined that many carriers underreported expenses in their annual reports. Mr. Lewis admitted, however, that the majority of his testimony was based on generalized impressions and that he was not aware of any specific items that had been omitted from specific annual reports.

Mr. Calvin Kearney, senior program analyst for the DHS Office of Health Care Financing (OHCF), testified at the request of Commission staff. OHCF oversees all aspects of the Medicaid program including transportation. OHCF enrolls transportation providers and issues "provider agreements." While no signed contracts are in effect, carriers render transportation pursuant to the provider agreements. Provider agreements define the Medicaid program by specifically outlining (a) what it is, (b) who it serves, and (c) what types of services are available to recipients. A provider manual is issued to each carrier containing an outline of the transportation provider's duties. The manual does not make any reference to "curb-to-curb" or "door-to-door" service. Mr. Kearney testified that his office has received complaints from program participants regarding lack of transport and has experienced difficulty in monitoring billing for helpers. Mr. Kearney acknowledged that it is the Commission's responsibility to set rates for transportation providers; however, he testified that DHS has some concerns "about the type of service and the quality of it." Thus, DHS neither supports nor opposes the proposal at issue in these cases, but rather the agency is interested in receiving value commensurate with price. If a rate increase is granted, DHS would like the affected carriers to:

(a) update their vehicles;

(b) install improved safety features in those vehicles;

(c) identify vehicles with the name of the carrier;

(d) provide drivers in uniforms; and

(e) improve communication systems.

Mr. Kearney also testified that it would be good business practice in his opinion if the carriers had general business liability insurance.

Commission staff also presented a financial witness, Mr. Melvin E. Lewis. Mr. Lewis submitted pre-filed testimony which was served on all parties pursuant to Commission Rule No. 23-04. 9/

9/ Mr. Lewis's entire pre-filed testimony (Exhibits A through E-3) was introduced into evidence as Exhibit 1.

Mr. Lewis is a certified public accountant with extensive regulatory experience having served as chief accountant for the District of Columbia Public Service Commission, the United States Postal Rate Commission, and the Washington Metropolitan Area Transit Commission for which agency he was also executive director at one time.

To analyze the proposed tariff at issue in these cases, Mr. Lewis used a 1986 test year and a nine-carrier test base consisting of all carriers specifically and exclusively certificated to transport non-ambulatory participants in the DHS Medicaid program. The test base was chosen after a review of revenues and expenses reported by all 16 carriers specifically certificated to perform DHS service and operating in 1986. That review showed that the 16 carriers realized an average profit of $9,810 in 1986. Operating results ranged from a profit of $74,292 to a loss of $15,642. The nine carriers doing DHS work exclusively showed an average profit of $5,596; the seven carriers doing a combination of DHS work and other work showed an average profit of $15,228. Examining the revenues and expenses as reported by the eight members of the Wheelchair Carriers' Association (WCA) operating in 1986, 10/ Mr. Lewis found an average net profit of $10,739. All averages shown by Mr. Lewis were simple arithmetic averages. Mr. Lewis used a simple, as opposed to a weighted, average because it was his opinion that the weighted average used by applicants' accountant produces distorted results. Mr. Lewis pointed out that he and Mr. Holmes began with similar raw figures. However, by imputing each cost category to all carriers without further adjustment or analysis, Mr. Lewis believed applicants' results were unjustifiably discrepant. As an example of this process, Mr. Lewis noted that in 1986 the cost of washing vehicles was stated by only four carriers, resulting in a total expense of $3,353; divided by four the average expense was $838. An expense of $838 was then imputed to each of the remaining four carriers, even though their cost for washing vehicles might have been included elsewhere, under the heading "maintenance" for example. Use of the weighted average produced a net loss for WCA of $34,467. None of the eight carriers had actually experienced a loss at that level.

Mr. Lewis then developed actual average costs by category for 1986 for the test base. Actual averages for 1986 resulted in net profit of $5,596 or 4.34 percent. Based on the actual averages, Mr. Lewis projected revenue and expenses for a 12-month period under

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10/ The carriers represented by the Wheelchair Carrier's Association (WCA) are: J&B Transportation Company, Inc.; Metro Medicab, Inc.; P&T Transportation Co., Inc.; Otis F. Smith trading as Speedy Transportation; Ellis B. Harrison, Sr., trading as Area Transportation Company; Damon's Transportation Company, Inc.; Battles's Transportation, Inc.; Care Access, Inc.; and David C. Pearson trading as E&H Transportation Company (E&H). All except Care Access, Inc., operated in 1986. However, E&H became a WCA member after Case No. AP-88-35 was filed. As a result, E&H's financial data were not considered by Mr. Holmes when preparing applicant's submissions.

the existing tariff. Revenue of $130,000 was projected for the period, an increase of only $1,100 because the amount paid by DHS to WMATC carriers has remained essentially unchanged since 1986. The categories "subcontractors," "contractual services," and "helpers" all of which appeared to represent extra manpower, were adjusted to reflect use of extra manpower on 45 percent of trips made, at a pay scale one-half that of drivers. One full-time (2,080 hours) clerk-dispatcher at $7.50 per hour was included in the pro forma and payroll taxes were adjusted to cover workman's compensation, FICA, federal unemployment tax, and other statutorily-mandated, payroll-related fees. WCA's "maintenance" adjustment of $1,500 was included to cover tire replacement. Automobile insurance was trended upward to $4,660 per van. WCA's projected garage expense of $8,400 was added. Depreciation was adjusted to provide for four new vans to be put in service; each van was assumed to cost $20,000 and amortized over a useful life of eight years on a straight-line basis. Interest expense and owners' personal drawings (other than wages) were deleted from test year expenses because they were not considered proper costs for ratemaking purposes. The "D.C. Franchise and Federal Income Taxes" category was trended downward to reflect only the minimum District of Columbia Unincorporated Business Franchise Tax. These adjustments assumed a four-van average use (average number of vans actually operated by the test base was 3.8). Actual figures were used for all other categories.

In making these modifications, the staff's witness testified that he took cognizance of the Compact, Title II, Article XII, Section 6(a)(3) which requires consideration of the need for revenue sufficient to enable a carrier, under honest, economical, and efficient management, to provide adequate and efficient transportation. Under applicants' current tariff the projected average operating result, as modified by Mr. Lewis, is a loss of $29,239 or 22.5 percent.

In an attempt to determine a level of fare that could support an adequate and proper transportation service, Mr. Lewis reviewed the tariffs currently on file with the Commission covering the transportation of non-ambulatory persons other than those paid for by DHS. A number of carriers, including some doing DHS work, have posted rates below those proposed to be charged for DHS work. Rates charged for a round trip ranged from $25 to $66. The median rate was $45.

Next Mr. Lewis examined the likely composition of carriers' revenue in order to project the financial effect of rate changes. Mr. Lewis used data supplied by DHS for the first three months of 1986 which provided ratios of one-way trips, round trips, and trips requiring extra manpower. The DHS data indicate that 1.1 percent of all trips were one-way requiring only the driver; 1.2 percent of all trips were one-way involving extra manpower; 53.3 percent of all trips were round trips involving only the driver; and 44.4 percent of all trips were round trips involving extra manpower. Based on this information and assuming the projected expenses as adjusted ($159,000), the staff's witness calculated the effect on revenue of the rates proposed in the application and of rates in five alternate proposals as follows:

APPLICANTS' PROPOSAL would set rates at $30 one-way, $50 round trip, plus 1/3 of each trip charge for extra manpower each way. This would increase projected base revenues from $130,000 to $272,480, generating an overal increase in revenue of 109.67 percent and yielding a net profit of $78,877. This represents a 28.95 percent rate of return on operating revenue.

STAFF ALTERNATIVE NO. 1 would set rates at $25 one-way, $45 round trip, plus 1/3 the trip charge for extra manpower. Projected base revenues would increase from $130,000 to $245,141, generating an 88.57 percent increase in revenue and yielding a net profit of $62,776. This represents a 25.61 percent rate of return on operating revenue.

STAFF ALTERNATIVE NO. 2 would set rates at $25 one-way, $40 round trip, plus 1/3 the trip charge for extra manpower. Projected base revenue would increase from $130,000 to $218,452, generating a 68.04 percent increase in revenue and yielding a net profit of $45,018. This represents a 20.61 percent rate of return on operating revenue.

STAFF ALTERNATIVE NO. 3 would set rates at $25 one-way, $40 round trip, plus $5 for extra manpower each way. Projected base revenues would increase from $130,000 to $211,783, generating a 62.91 percent increase in revenue and yielding a net profit of $40,267. This represents a rate of return of 19.01 percent on operating revenue.

STAFF ALTERNATIVE NO. 4 would set rates at $25 one-way, $35 round trip, plus $5 for extra manpower each way. Projected base revenues would increase from $130,000 to $188,305, generating a 44.85 percent increase in revenue and yielding a net profit of $22,356. This represents an 11.87 percent rate of return on operating revenue.

STAFF ALTERNATIVE NO. 5 would set rates at $20 one-way and $30 round trip, plus $5 for extra manpower each way. Projected base revenues would increase from $130,000 to $163,969 yielding a carrier net profit of $3,791. This represents a 2.31 percent rate of return on operating revenue.

DISCUSSION AND CONCLUSIONS

This case is governed by the Compact, Title II, Article XII, Section 6 which confers on the Commission the power to prescribe fares, regulations, and practices. Among other things, Section 6 requires that the Commission

> . . . give due consideration, among other factors, to the inherent advantages of transportation by such <u>carriers</u>; to the effect of rates upon the movement of <u>traffic</u> by the carrier or <u>carriers</u> for which the rates are prescribed; to the need, in the public interest, of adequate and efficient transportation service by such <u>carriers</u> at the lowest cost consistent with the furnishing of such service; and

to the need of revenues sufficient to enable such carriers, under honest, economical, and efficient management, to provide such service. (Emphasis added.)

Case No. AP-88-35 is an application of ten carriers having differing operating histories, operating authorities, and financial positions. The ten applicants are bound by their specific authority from the Commission to transport in special operations non-ambulatory participants in the DHS Medicaid program. By instituting Case No. MP-88-38, the Commission made all similarly-situated carriers part of the application for a rate increase. We find that a single rate for all such carriers is justified. In actuality the carriers are similar. All are specifically authorized to transport non-ambulatory participants in the DHS Medicaid program; as of this date six are exclusively so authorized. All operate only a few vehicles; the vehicles have a manufacturer's designed seating capacity of less than 16 and have been equipped with wheelchair lifts or ramps and tie-downs or clamps; all owners are actively involved in the business, most as drivers. Basic expense categories were similar for all carriers and, although a certain range existed for expenses (and revenues), operating experience did not fluctuate widely when adjusted for type of work done and number of vehicles operated. The Commission has always considered this group of carriers to be a unit for rate-making purposes. See Order No. 1749, served September 16, 1977, pp. 30-31. In point of fact all applicants and parties-respondent to these cases do the same work for the same client (DHS), even transporting non-ambulatory passenger to a relatively limited number of destinations. In light of these facts, we find a uniform rate based on an industry profile to be appropriate.

After review of the entire record in these cases in light of the elements enumerated in Section 6 of the Compact, we find that applicants and parties-respondent have failed to prove that their expenses justify the proposed fare increase. We, therefore, turn to the analysis provided by Staff's financial witness.

The record is clear that the number and type of trips which DHS will require is unlikely to change much in the foreseeable future. Those trips are divided among the carriers participating in these cases. Therefore, revenue will increase only as a function of a tariff increase.

Mr. Melvin Lewis began his revenue requirement analysis with the most recent raw data relied on by applicants. By using a test base composed solely of carriers that performed DHS service exclusively, he avoided problems of allocating revenues and expenses between the DHS service at issue in these cases and other service performed by the parties. His use of a simple arithmetic average is in keeping with the Compact's intent that rates be set at the lowest cost consistent with the carriers' need for adequate revenue to furnish service. We agree with Mr. Lewis that use of a weighted average unduly distorts carriers' historic operating results. Attachment A to Exhibit 1 shows that only two of the eight carriers represented by the Wheelchair Carrier

Association and conducting operations during the test years experienced a loss in 1986. One carrier's loss was $3,003, and the other carrier's loss was $15,642. Nonetheless, the weighted averaging method would show an average loss of $34,467 applicable to all carriers, more than twice the larger loss reported. Modifications to the 1986 actuals (including provision for a full-time clerk dispatcher, payment of all taxes and fees, a monthly maintenance allowance, garage expense, increased automobile liability insurance expense, and a depreciation allowance sufficient to allow the average carrier to replace his entire fleet) are sufficient adjustments on this record to reflect an appropriate revenue requirement. We note that this revenue requirement differs substantially from the requirement derived by applicants' accountant. However, applicants submitted no specific testimony or work sheets relative to their pro forma, and the system used in the pro forma does not appear to comport with the explanations governing the modified averages for the test years supplied by Mr. Holmes. This precludes any meaningful analysis of applicants' pro forma. No party-repondent submitted a pro forma applicable to the industry as a whole. In Staff Alternative No. 4, Mr. Lewis determined the industry revenue requirement for the next 12-month period to be $188,305, and we find this determination to be reasonable and to take due consideration of factors which would enable the carriers to provide adequate and efficient transportation in the public interest. After reviewing the entire record in this case and upon careful examination of staff's alternative proposals, we find Staff Alternative No. 4 to be justified, and we hereby prescribe rates accordingly.

Alternative No. 4, like all staff alternatives, specifically provides for major transportation-related expenses that carriers testified were needed but which they could not profitably provide under their current rate structure, specifically new equipment, separate business space and garaging of vehicles, increased maintenance, an additional full-time employee to improve communications, and increased auto liability insurance premiums. In addition, Alternative No. 4 allows for a rate of return of 11.87 percent. This rate approximates that requested by applicants, and we find it reasonable for the type of business conducted by applicants and parties-respondent and in the current economic climate.

Most importantly it is our belief that this rate increase should allow carriers to improve service and compliance with Commission rules and regulations. The record is replete with statements and admissions that the carriers involved in these cases use vehicles not identified as required by Commission Regulation No. 67 and have submitted sworn and notarized financial statements which were inaccurate. Within 30 days of the service date of this order, all applicants and parties-respondent will be directed to submit detailed affidavits of identification. Each affidavit of identification is to cover a single vehicle only, to describe that vehicle by listing its make, model, all modifications and accessories for the safe transport of non-ambulatory persons, serial number, vehicle number, license plate number (with jurisdiction), and place where garaged and to describe its manner of identification by listing all words and/or numbers permanently affixed to the vehicle, the size of all words and/or numbers, and the place(s) where all words and/or numbers are affixed.

THEREFORE, IT IS ORDERED:

1. That J&B Transportation Company, Inc.; Metro Medicab, Inc.; P&T Transportation Co., Inc.; Otis F. Smith Trading as Speedy Transportation; Ellis B. Harrison, Sr., trading as Area Transportation Company; Damon's Transportation Company, Inc.; William C. Dye trading as W&D Transportation; Battle's Transportation, Inc.; Care Access, Inc.; Ironsides Medical Transportation Corporation; Jenkins Transportation Service, Inc., Henry L. Epps, Jr.; David C. Pearson trading as E&H Transportation Company; Perkins Ambulance and Wheelchair Service, Inc.; and Mercy Ambulette Services, Inc., are each hereby directed within 30 days of the service date of this order to file appropriately revised tariffs as prescribed in the body of this order.

2. That J&B Transportation Company, Inc.; Metro Medicab, Inc.; P&T Transportation Co., Inc.; Otis F. Smith trading as Speedy Transportation; Ellis B. Harrison, Sr., trading as Area Transportation Company; Damon's Transportation Company, Inc.; William C. Dye trading as W&D Transportation; Battle's Transportation, Inc.; Care Access, Inc.; Ironsides Medical Transportation Corporation; Jenkins Transportation Service, Inc.; Henry L. Epps, Jr.; David C. Pearson trading as E&H Transportation Company; Perkins Ambulance and Wheelchair Service, Inc.; and Mercy Ambulette Services, Inc., are each hereby directed within 30 days of the service date of this order to file for each vehicle operated within the Metropolitan District an affidavit of identification describing that vehicle by listing its make, model, all modifications and accessories for the safe transportation of non-ambulatory persons, serial number, vehicle number, license plate number (with jurisdiction), and place where garaged and to describe its manner of identification by listing all words and/or numbers permanently affixed to the vehicle, the size of all words and/or numbers, and the place(s) where all words and/or numbers are affixed.

3. That timely compliance with the directives of this order is required, and no extensions of time for compliance are contemplated.

4. That the rates prescribed herein shall become effective Wednesday, November 1, 1989, at 12:01 a.m.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS WORTHY, SCHIFTER, AND SHANNON:

William H. McGilvery
Executive Director